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No. 94-476

Supreme Court, U.S.
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In The

Supreme Court of the United States

October Term, 1994

HONORABLE NATH C. DOUGHTIE and HONORABLE KARL B. GRUBE,

Petitioners,

vs.

FLORIDA DEPARTMENT OF STATE, JIM SMITH, SECRETARY,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

REPLY BRIEF FOR PETITIONERS

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ARGUMENT

In his brief in opposition to the issuance of the writ, Respondent Smith, Secretary of State of Florida, has raised new matter by attempting to argue the merits of the question posed to the Court by the petition for writ. Under this Court's rules, arguments on the merits in connection with the petition for writ is improper and entirely extraneous. The only proper matter to be addressed in these briefs is whether or not the petition poses a question of sufficient importance for this Court to agree to consider it on the merits.

Nevertheless, Respondent Smith's brief in opposition confirmed the specific aspect of Ch. 91-107 Laws of Florida that Petitioners seek to have this Court review under First and Fourteenth Amendment principles: *i.e.*, THE STATUTE IMPOSED A FEE UPON PETITIONERS AS A CONDITION TO THEIR QUALIFYING TO RUN FOR THE ELECTIVE OFFICE OF JUDGE FOR THE PURPOSE OF RAISING FUNDS TO PROVIDE PUBLIC FINANCING FOR THE POLITICAL CAMPAIGNS OF CANDIDATES FOR THE OFFICES OF GOVERNOR AND ELECTED CABINET OFFICE BY LINKING THE IMPOSITION OF A FILING FEE WITH AN APPROPRIATION TO THE FUND FOR FINANCING POLITICAL CAMPAIGNS. Respondent's Brief in Opposition to Petition for Writ of Certiorari, pp. 5, 9.

This petition, therefore, raises a First and Fourteenth Amendment ballot access question that has never been addressed by this Court; *i.e.*, MAY A STATE IMPOSE A SUBSTANTIAL FILING FEE UPON AN ASPIRANT'S FIRST AMENDMENT INTERESTS IN BECOMING A CANDIDATE FOR JUDICIAL OFFICE TO SATISFY THE STATE'S INTEREST, HAVING NOTHING TO DO WITH CONDUCTING OR REGULATING THE ELECTION TO WHICH THE ASPIRANT ASPIRES, TO

FINANCE THE POLITICAL CAMPAIGNS OF PARTISAN CANDIDATES FOR GOVERNOR AND EXECUTIVE CABINET?

Petitioners respectfully submit that the question is sufficiently important to core political freedoms to justify the immediate attention of this Court. Although Petitioners are desirous of arguing the merits of the issue, as Respondent Smith did in his brief in opposition, they will withhold those arguments as required by the rules of this Court until the Court gives leave to submit briefs on the merits.

Accordingly, Petitioners Doughtie and Grube respectfully submit that this Court should grant the petition and issue a writ of certiorari to the Court of Appeals.

Respectfully submitted,

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